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C O N F I D E N T I A L SECTION 01 OF 03 YEREVAN 001046

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TAGS: PGOV PHUM PREL KDEM KJUS AM

SUBJECT: EMBASSY PRESSES GOAM ON "CASE OF SEVEN"

REF: YEREVAN 1038

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Classified By: AMB Marie L. Yovanovitch, reasons 1.4 (b,d).

SUMMARY AND COMMENT

¶1. (C) The Ambassador spoke with a presidential adviser and met with the Prosecutor General to register USG concerns over the GOAM's handling of the "Case of Seven," which has gotten off to a tumultuous start (reftel). In observing the first three hearings of the trial so far, Emboffs have witnessed intimidation tactics by plainclothes police inside the courtroom; the judge's removal of media to an adjacent hall; allegations by a defendant that he was beaten in his prison cell; and two consecutive postponements because of defendants' refusal to stand when the judge enters the court.

In response to the beating allegations, post's human rights officer visited the prison where the detainee in question is being held to inquire directly about the charges, which he insisted were true, but appear to have been exaggerated by the opposition. The Ambassador likewise met with Armenia's Human Rights Defender (Ombudsman) to register her concerns. Defending the GOAM's handling of the case, the Prosecutor General warned of a "subjective" ruling if the international community and Ombudsman continue to pressure the authorities. The next hearing in the trial is scheduled for January 9.

¶2. (C) CONTINUE SUMMARY AND COMMENT: The "Case of Seven" has quickly become a high stakes poker game between the authorities and the opposition, with both sides leaving each other and observers guessing about their next steps. While the authorities face possible sanctions at the late January session of the Parliamentary Assembly of Europe (PACE), there are still rumors of a possible eleventh hour general amnesty of all March 1 detainees and prisoners. The authorities also deserve credit for the steps they have taken in response to the beating allegations, with the President publicly calling for an investigation, dispatching the Ombudsman to the prison, and the authorities allowing post's human rights officer to visit the detainees. We will continue to make the case, both privately and publicly, that the authorities should act to repair Armenia's abysmal performance on democracy and human rights in the aftermath of the March 1 violence, and that the opposition must also act constructively. Indeed, with the "Case of Seven" defendants pointedly showing disrespect to the court, the opposition's exaggeration of the facts of the prison beatings, and its pressure on the Embassy and Ombudsman to make statements condemning the conduct of the trial in the run-up to the PACE session, the opposition appears to be relishing the opportunities that the high-profile trial provides as they desperately seek to remain relevant ten months after the disputed presidential election. At the same time, both sides seem stuck in old, unconstructive patterns, and not in a rush to put this issue behind them. The "Case of Seven" has

become, and will likely continue to be, a reflection of Armenia's two most pressing domestic priorities: resolving the long-fester, post-election political crisis, and restoring the public's trust in the rule of law. END SUMMARY AND COMMENT.

EMBASSY RESPONDS TO ALLEGED PRISON BEATINGS

¶3. (C) On December 23, at the second hearing of the "Case of Seven," the controversial trial of seven prominent opposition figures charged with an attempted coup d'etat during Armenia's post-election unrest, one of the seven defendants alleged that he had been beaten earlier in the morning by unidentifiable security forces in his prison cell. Senior members of the opposition Armenia National Congress (ANC) immediately requested a meeting with the Ambassador on December 24 to raise their concerns about the beating, and alleged beatings of two other opposition activists being held in the same prison, and requested the Embassy issue a statement condemning the incidents. The beating allegations prompted Armenia's President Serzh Sargsian to call for an internal investigation the same day.

¶4. (C) The Ambassador immediately telephoned presidential aide Vigen Sargsian to register USG concerns about the allegations and the GOAM's handling of the trial so far, including the segregating of the media in a separate room, and stuffing the courtroom gallery with plainclothes policemen who claimed to be victims in the case. The Ambassador said such signs risked sending the message that the authorities did not want to have an open, transparent trial. She also requested that post's human rights officer be allowed to visit the three alleged beating victims.

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(NOTE: In addition to being charged for an attempted coup d'etat, all seven defendants have also been charged with organizing "mass riots accompanied by murders." Eight civilians and two police personnel were killed during the March 1-2 clashes. END NOTE.) The aide told the Ambassador that President Sargsian was equally concerned, and had already initiated an investigation into the alleged beatings. He also agreed with the Ambassador that it was important to keep the trial open, even though the defendants and others are behaving badly, which would not be tolerated elsewhere. (NOTE: The launch of the internal investigation was immediately made public by the Presidency. END NOTE.)

¶5. (C) The Ambassador also dispatched post's human rights officer to Nubarashen prison to meet with the three detainees who were allegedly beaten by unidentifiable security forces early on December 23. (COMMENT: To post's pleasant surprise, the official request to the MFA for the prison access was promptly acted upon and approved for December 26 in view of the "close relationship with the United States." END COMMENT.) Allowed to meet alone with the three detainees, the officer did not notice any physical indications of the alleged beatings. One of the detainees refused to discuss anything related to what happened; the two others, however, including one of the "Case of Seven" defendants, confirmed that they had been "slapped" in the face between 5-6 times by the head of an unidentifiable security force that inspected their cells in the morning.

¶6. (C) Both were told to stay in the cell during the inspection, while other inmates were taken out of the cell. (NOTE: Both confirmed that it is normal practice for one inmate to be kept in the cell to observe the inspection. END NOTE.) When the senior officer asked them why they were being held, the two mentioned their alleged involvement in the March 1-2 unrest, at which the officer replied, "so it was you who injured my colleagues," and proceeded to slap the detainees in the face. (NOTE: The two detainees confirmed that the Minister of Justice and the Human Rights Defender

had visited them the evening of December 24 to inquire about the allegations. The "Case of Seven" defendant also confirmed that he was inspected by three doctors during the officials' visit. END NOTE.) The two detainees stated that the physical abuse they had received early on December 23 was the first of its kind in the nine-ten months of their detention at Nubarashen.

PROSECUTOR GENERAL BLAMES DISORDERS ON DEFENDANTS

¶7. (C) The Ambassador also met with Prosecutor General (PG) Aghvan Hovsepian early on December 28 to register USG concerns, pointing out that stuffing the court with plainclothes policemen, restricting public access to the court's proceedings, and moving the media to an adjacent hall served only to lower the public's trust in the court ever reaching a legitimate verdict. She added that the judge's opening of the trial only nine days after receiving its 12,000 pages of case materials raised questions about the judge's impartiality, wondering out loud how one person could digest such lengthy, complicated material on arguably modern Armenia's most important criminal case. The Ambassador also stated that the administration of justice in all March 1-related cases has been severely handicapped by the fact that, to date, not one single law enforcement representative or government official has been accused of any wrongdoing, while 100-plus opposition activists have been. The Ambassador urged the PG and all relevant authorities to conduct the trial in an open, transparent, and credible manner, and to give serious thought to political solutions such as a general amnesty of all March 1 detainees and prisoners.

¶8. (C) Hovsepian stubbornly defended the authorities' handling of the "Case of Seven," spending approximately two hours praising investigators' and prosecutors' ability to process ninety criminal cases involving 117 March 1-2 defendants and blaming all delays on the defense and opposition political forces. He dismissed the argument against the judge's calling the trial too quickly, saying it was an international norm for legal experts to be able to review 300 pages of case materials a day while preparing for a case. (NOTE: The case materials for the "Case of Seven" contain 12,000 pages, and are divided into 41 volumes; by the PG's line of reasoning, it should require one person 40 days to process 12,000 pages at the rate of 300 pages/day. END NOTE.)

¶9. (C) The PG also argued that preventing the approximately 200-plus police officers from attending the trial as "victims" of the defendants' alleged actions would invalidate

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the outcome of the trial, but that court authorities were nevertheless taking measures to decrease the police presence by securing written agreements from police officers that they would accept the verdict of the case even if they were not present at the trial's proceedings. The Ambassador noted that until the judge rules, it is not clear who the "victims" are, and reiterated that the police presence was intimidating, that they were not being screened as they entered the courtroom, while others were, and that the authorities were responsible for creating an equitable system of attendance at the trials that was seen as impartial and open to all.

¶10. (C) The PG also blamed the defendants, their lawyers, and the opposition led by ex-President Levon Ter-Petrossian for the delays in the start of the trial. According to Hovsepian, the case materials were presented to the defense on September 1, and he agreed to several extension requests by defense attorneys to review the materials. Hovsepian said the defense was deliberately delaying the trial out of misplaced hopes that the international community would

sanction Armenia over the handling of their cases. (COMMENT:

It has been the judge presiding over the case who has postponed the second and third hearings, within minutes of opening the proceedings, with neither the defense attorneys nor defendants able to make any statement. The stated reason for the adjournment is the defendants' refusal to stand for the judge and their outbursts when he enters the courtroom. There is also a theory that the GOAM is playing for time as it seeks to determine its next step. END COMMENT.)

¶11. (C) While welcoming international interest in the case, the PG warned that pressure from the international community and Armenia's Ombudsman could result in "a subjective" ruling. (COMMENT: Hovsepian and the Ombudsman Armen Harutyunian are known to be bitter adversaries who regard each other with contempt. Harutyunian has been attending each hearing, and commenting critically on its tumultuous start. END COMMENT.) The PG maintained that such pressure was "not necessary," since "the crimes were against the authorities," and "the government is the victim." The PG said that the trial could take "months" before a verdict is reached. On the issue of amnesty, the PG chose to describe the steps for a presidential pardon, which include an admission of guilt and appeal to the President. The Ambassador pushed back, saying a general amnesty shouldn't require such steps, which the PG confirmed. (COMMENT: For an amnesty to occur, the President must request it through a proposed bill of law to the National Assembly. One of the ruling coalition parties has recently come out in support of an amnesty, and two of its legislators told Emboffs at the December 27 trial hearing that Armenia's MPs would easily pass such a law should President Sargsian present it. END COMMENT.)

OMBUDSMAN: STUCK BETWEEN A ROCK AND A HARD PLACE

¶12. (C) After meeting the PG, the Ambassador had lunch with the Ombudsman to get his views of the case. The Ombudsman complained of being caught in the crossfire of the authorities on one side, and the opposition on the other. He said he would attend every hearing and come up with his own legal analysis of the case, which he would announce in two-three months time. He said he rejected pleas by the opposition to make a preliminary assessment of the case in January, before Armenia is to be discussed and possibly sanctioned by the Parliamentary Assembly of the Council of Europe (PACE). The Ombudsman said he did not see any logic in the authorities' handling of the case, which he said should have been resolved by a general amnesty right after President Sargsian's April 9 inauguration. He worried that time was getting away from the authorities, and their options for solving the crisis were going from "bad to worse." Harutyunian appeared flabbergasted in trying to divine the authorities' motives for stretching out the case, opining that President Sargsian's Soviet upbringing could be to blame. According to the Ombudsman, Sargsian may think that an amnesty could be construed as weakness, and hence is loathe to walk down that path.

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